

COMES NOW Third-Party Defendant LARRY WRIGHT and files this Motion for Leave to File His First Amended Answers and Affirmative Defenses to DMA Properties, Inc. and Frank Daniel Moore's Third-Party Claims (Dkt. Nos. 6 & 14).

Background

1. DMA Properties, Inc. filed its Counterclaim and Third-Party Complaint on June 1, 2020. (Dkt. No. 5).

2. Third-Party Defendant Larry Wright was never served, but agreed to appear with an agreed upon answer date of August 14, 2020, and answered on that date. (Dkt. No. 39).

3. Frank Daniel Moore filed his Counterclaim and Third-Party Complaint on June 12, 2020. (Dkt. No. 14).

4. Third-Party Defendant Larry Wright was not served, but agreed to appear with an agreed upon answer date of August 14, 2020, and answered on that date. (Dkt. No. 40).

5. Trial is currently set for December 7, 2020. (Dkt. No. 44). Minimal discovery has been conducted and a Motion for Summary Judgment is currently set for September 22, 2020.

6. Third-Party Defendant Larry Wright seeks to amend his Answer to DMA Properties, Inc.'s Counterclaim and Third-Party Complaint. A true and correct copy of his proposed First Amended Answer is attached hereto as Exhibit 1.

7. Third-Party Defendant Larry Wright seeks to amended his Answer to Frank Daniel Moore's Counterclaim and Third-Party Complaint. A true and correct copy of his proposed First Amended Answer is attached hereto as Exhibit 2.

Arguments and Authority

8. Rule 15 of the Federal Rules of Civil Procedure provides in relevant part that “. . . a party may amend the party’s pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires.” Fed. R. Civ. P. 15(a).

9. The United States Supreme Court has declared that Rule 15(a)’s directive that leave to amend “shall be freely given when justice so requires” is a “mandate . . . to be heeded.”

Foman v. Davis, 371 U.S. 178, 182 (1962). The *Foman* court further declared that:

In the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, [or] undue prejudice to the opposing party by virtue of allowance of the amendment . . . the leave sought should, as the rules require, be “freely given.”

Id. (quoting Rule 15(a)).

10. No prejudice would result from granting the relief requested in this Motion. Discovery is in its initial stages and trial is more set more than 90 days from the date on which the relief sought herein has been requested. Further, the deadline for filing for leave to amend pleadings has not passed. Accordingly, Third-Party Defendant Larry Wright respectfully requests the Court grant leave to amend his Answers and Affirmative Defenses to DMA and Moore’s Counterclaims.

WHEREFORE, PREMISES CONSIDERED, Third-Party Defendant Larry Wright respectfully requests that the Court grant his Motion for Leave to File His First Amended Answer and Affirmative Defenses to DMA Properties, Inc. and Frank Daniel Moore’s Third-Party claims against him. Third-Party Defendant Larry Wright further requests that the Court order that his First Amended Pleadings, attached hereto as Exhibits 1 and 2, be filed among

the pleadings in this case and that the Court grant him any and all other relief to which he is entitled.

Respectfully submitted,

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Certificate of Service

I hereby certify that a true and correct copy of the foregoing document was served on all counsel of record by way of e-service through the CM/ECF system by notice of electronic filing or via email on the 14th day of September, 2020:

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